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9 *Attorneys for Tecumseh–Infinity Medical*
 10 *Receivable Fund, LP*

11 **IN THE UNITED STATES BANKRUPTCY COURT**
 12 **FOR THE DISTRICT OF NEVADA**

13 In re:

14 INFINITY CAPITAL MANAGEMENT,
 15 INC.,

Debtor.

Case No.: 21-14486-abl

Chapter 7

16 HASELECT-MEDICAL RECEIVABLES
 17 LITIGATION FINANCE FUND
 18 INTERNATIONAL SP,

Plaintiff,

19 v.

20 TECUMSEH-INFINITY MEDICAL
 21 RECEIVABLES FUND, LP,

Defendant.

Adversary Case No.: 21-01167-abl

22 TECUMSEH-INFINITY MEDICAL
 23 RECEIVABLES FUND, LP,

Counter-Claimant,

24 v.

25 HASELECT-MEDICAL RECEIVABLES
 26 LITIGATION FINANCE FUND
 27 INTERNATIONAL SP,

Counter-Defendant.

28

**SUPPLEMENTAL STATEMENT OF
 UNDISPUTED FACTS IN SUPPORT OF
 TECUMSEH-INFINITY MEDICAL
 RECEIVABLE FUND, LP MOTION FOR
 PARTIAL SUMMARY JUDGMENT AS
 TO DIRECT PURCHASE
 RECEIVABLES**

Hearing Date: October 25, 2022

Hearing Time: 1:30 p.m.

1 HASELECT-MEDICAL RECEIVABLES
 2 LITIGATION FINANCE FUND
 3 INTERNATIONAL SP,
 4 Counter-Claimant,
 5 v.
 6 TECUMSEH-INFINITY MEDICAL
 7 RECEIVABLES FUND, LP,
 8 Counter-Defendant.

9 Pursuant to LR 7056, Defendant and Counterclaimant Tecumseh-Infinity Medical
 10 Receivable Fund, LP (“Tecumseh”) respectfully submits the following supplemental statement
 11 of undisputed facts in support of its *Reply in Support of Motion for Partial Summary Judgment*
as to Direct Purchase Receivables (the “Reply”).

	TECUMSEH’S UNDISPUTED FACTS AND SUPPORTING EVIDENCE	HASELECT’S RESPONSE AND SUPPORTING EVIDENCE	
12	13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	On June 6, 2020, HASelect and Griffin Asset Management, LLC (“GAM”) filed a complaint (the “ <u>Meyer Complaint</u> ”) in the Circuit Court of Cook County, Illinois, County Department, Chancery Division against Tecumseh, its principal, Chadwick Meyer, Alternative Investment Specialists Limited and FTM Limited (the “ <u>Meyer Action</u> ”). <i>See</i> Opposition [ECF No. 122], Ex. 5 (Meyer Complaint)	
	In the Meyer Complaint, HASelect asserted claims against Tecumseh (and the other defendants) arising from Tecumseh’s business dealings with the Debtor. <i>See</i> Meyer Complaint, ¶¶ 92, 95-96		

1 2 3 4 5 6 7 8 9 10 11	<p>The Meyer Complaint contains allegations that: (i) HASelect and GAM owned and possessed confidential, proprietary, and trade secret information; and (ii) Tecumseh, Meyer, and FTM misappropriated the confidential, proprietary and trade secret information and used it to try to usurp Plaintiffs' existing and future business; and (iii) the misappropriation of HASelect's confidential, proprietary, and trade secret information by HASelect was intentional, knowing, willful, malicious, and fraudulent.</p> <p><i>See</i> Meyer Complaint, ¶¶ 92, 95-96</p>	
12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>On August 12, 2022, HASelect and GAM filed a complaint (the "<u>Clark Complaint</u>") in the United States District Court for the Northern District of Illinois against Simon Clark, another of Tecumseh's principals (the "<u>Clark Action</u>").</p> <p><i>See</i> Opposition, Ex. 14. (Clark Complaint)</p>	
The Clark Action arises from HASelect's grievances with Clark concerning Tecumseh's formation and business dealings with the Debtor.		
<p><i>See</i> Clark Complaint</p>	<p>Through the Meyer Complaint, HASelect sought to enjoin Tecumseh from conducting business with the Debtor and damages.</p> <p><i>See</i> Meyer Complaint, pp. 19-20.</p>	

<p>In furtherance of that goal, HASelect sought a preliminary injunction against Tecumseh, Meyer, and FTM in the Meyer Action to “enjoin Defendants from doing business with nonparty [Infinity].”</p> <p><i>See Exhibit J (Court Order Denying Injunctive Relief)</i></p>	
<p>After a two-day hearing in which testimony was taken, various documents were admitted into evidence, and having heard the arguments of counsel, the Meyer Action court denied HASelect’s motion for preliminary injunction in its Order dated February 17, 2021.</p> <p><i>See Exhibit J (Court Order Denying Injunctive Relief)</i></p>	
<p>The Meyer Action court issued the following findings in its February 17, 2021 Order:</p> <ul style="list-style-type: none"> • Defendant Meyer worked for GAM until May 2019. Subsequently, Meyer formed [Tecumseh] to purchase medical receivables in connection with personal injury cases. [Tecumseh] and Infinity entered into a sub-advisory agreement under which Infinity provides portfolio management and administrative services, including negotiating the price of receivables. [Tecumseh] purchases receivables for itself and secures a lien on proceeds from the receivable... • As to the interference claim related to Infinity, it seems that 	

	<p>the Defendants structured [Tecumseh] to avoid interfering with Infinity's pre-existing contractual obligations with [HASelect]. Significantly, unlike [HASelect] which loans money to Infinity to purchase the medical receivables, <u>[Tecumseh] is not a lender.</u></p>	
7 8	<p><i>See Exhibit J at 2-3 (emphasis added).</i></p>	
9 10 11 12	<p>HASelect subsequently dismissed the Meyer Action without appeal.</p> <p><i>See Exhibit K (docket for the Meyer Action)</i></p>	
13 14 15 16 17 18 19 20 21	<p>HASelect filed its Complaint in this Adversary Proceeding on October 19, 2021, and its Amended First Amended Complaint ("AFAC") [ECF No. 24] in this Adversary Proceeding, the presently operative Complaint, on December 13, 2021. Like the Meyer Complaint, the AFAC includes claims against Tecumseh for declaratory relief, injunctive relief, and damages arising from Tecumseh's business dealings with the Debtor.</p>	
22 23 24 25 26 27	<p><i>See ECF Nos. 1 and 24</i></p> <p>The purpose of the Sub-Advisory Agreement was to facilitate a sale of the receivables directly between the medical service providers and Tecumseh.</p> <p><i>See Exhibit L [Hemmer Dep. Vol. II at 185:15-20].</i></p>	
	<p>The Debtor was not to acquire an interest in the receivables or to be</p>	

	<p>part of the chain of title.</p> <p><i>See Exhibit L, Hemmer Dep. Vol. II at 186:3-8.</i></p>	
4 5 6 7	<p>Tecumseh tied each purchase of a Direct Purchase Receivable to a check or wire transfer from Tecumseh's BofA Account payable to the selling medical service provider.</p> <p><i>See Reconciliation, attached as Exhibit F to Tecumseh's Statement of Undisputed Facts [ECF No. 92]; Declaration of Michael Belotz ("Belotz Decl.") [ECF No. 91] at ¶¶ 15-18.</i></p>	
12 13 14 15 16	<p>Tecumseh owned the BofA account and all of the funds within it.</p> <p><i>See Composite Exhibit G; Exhibit J, Exhibit L [Hemmer Dep. Vol. II at 188:25-189:15, Hemmer Dep. Vol. II. at 189:13-14] and Exhibit N; see also Belotz Decl. at ¶ 11;</i></p>	
17 18 19 20 21	<p>The BofA Account was titled in the name of "Tecumseh-Infinity Medical Receivables Fund, LP," Tecumseh's legal name.</p> <p><i>See Composite Exhibit G; Exhibit J, and Exhibit N.</i></p>	
22 23 24 25	<p>Funds in the BofA account came from Tecumseh's investors.</p> <p><i>See Exhibit N; see also Belotz Decl. at ¶ 11 and Belotz Supp. Decl. at ¶¶ 9, 12-13.</i></p>	
26 27 28	<p>The Debtor did not include the BofA Account on its Schedules.</p> <p><i>See Debtor's Schedules [Main</i></p>	

1	Case, ECF No. 47].	
2	The Debtor's assumed name was 3 associated with the BofA Account 4 only to allow checks to be deposited in the account. 5 See Exhibit L [Hemmer Dep. Vol. II at 212:4-23, 215:18-21]; Belotz 6 Supp. Decl. at ¶ 8.	
7	Debtor's principals signed checks 8 as agents of Tecumseh and were allowed to do so only for Tecumseh's business. 9 See Exhibit L [Hemmer Dep. Vol. 10 II at 215:22-216:6]	
11	Debtor's signatures had to be 12 countersigned by a representative 13 of Tecumseh. Therefore, the checks drawn on the BofA Account 14 show the signatures of both Tecumseh and Debtor's principals. 15 See Composite Exhibit G, Exhibit 16 L [Hemmer Dep. Vol. II at 215:18- 216:11]; <i>see also</i> Belotz Decl. at ¶ 17 11;	
18	A proper tracing analysis 19 demonstrates that Tecumseh's funds were used to purchase the 20 Direct Purchase Receivables. 21 See Exhibit O (Tracing Analysis); <i>see also</i> Belotz Supp. Decl. at ¶ 11.	
22	Tecumseh deposited \$3.7 million of its investor's money into the BofA Account. See Exhibit O; <i>see also</i> Belotz Supp. Decl. at ¶ 12.	
23	Tecumseh paid \$3.2 million out of the BofA Account to purchase the Direct Purchase Receivables.	
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	<i>See Exhibit F (Reconciliation)</i>	
1	From July 2020 through September 2 2021, cumulative Tecumseh 4 Deposits were higher than 5 cumulative Provider Payments in 6 each month. Thus, there were more 7 than sufficient funds deposited by Tecumseh to purchase the receivables. 8 <i>See Belotz Supp. Decl. at ¶ 18</i>	
9	Proceeds of receivables purchased 10 by Tecumseh were deposited into the BofA Account but they 11 represented a relatively minor part 12 of the total funds (approximately 13 15%) in the account. Deposits related to receivables totaled \$696,747. 14 <i>See Belotz Supp. Decl. at ¶ 14.</i>	
15	Tecumseh paid the Debtor 16 \$723,073 out of the BofA Account 17 in fees and expense reimbursements. 18 <i>See Belotz Supp. Decl. at ¶ 17.</i>	
19	Tecumseh distributed \$55,580.80 to 20 the Debtor in October 2020 (Check 21 1001, dated 9/30/2020 cleared 10/1/2020) to enable the Debtor to 22 purchase the Batch 1-G receivables, which are part of the Disputed 23 Receivables, on Tecumseh's behalf. 24 <i>See Belotz Supp. Decl. at ¶ 18.</i>	
25	Two of the three purchase and sale 26 agreements relied upon by 27 HASelect and entered by and between the Debtor and the medical providers expressly contemplated	

1	future sales of accounts receivables.	
2	<i>See Opposition, Exhibits 28 and 33,</i>	
3	¶ 3.	

4 Dated this 24th day of October 2022.

5 Respectfully submitted,

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